

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

JUNE 20, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-3122

STATE OF WISCONSIN

IN COURT OF APPEALS  
DISTRICT III

CITY OF APPLETON,

**Plaintiff-Respondent,**

v.

RICHARD J. WOOD,

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Outagamie County: JOHN A. DES JARDINS, Judge. *Affirmed.*

LaROCQUE, J. Richard Wood appeals a judgment imposing a money judgment in the amount of \$83.50 for allowing his dog to run at large in violation of an Appleton city ordinance. Wood challenges the circuit court's jurisdiction over his person and the court's authority to enter an alternative jail sentence in lieu of payment of the forfeiture. This court affirms.

Wood's motion to dismiss for lack of personal jurisdiction was heard and denied by the circuit court on November 8, 1994. The transcript of that proceeding is not part of the record.<sup>1</sup> When an appeal is brought upon an

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<sup>1</sup> By order dated December 14, 1994, this court denied Wood's motion that this court provide him a transcript at public expense. The order directed Wood to seek relief in the trial court. As the

incomplete record, this court will assume that every fact essential to sustain the trial court's decision is supported by the record. *T.W.S., Inc. v. Nelson*, 150 Wis.2d 251, 254-55, 440 N.W.2d 833, 835 (Ct. App. 1989). The circuit court's finding that it had personal jurisdiction is therefore affirmed.

Wood next claims that the court did not have authority to impose a three-day jail sentence in lieu of payment of the forfeiture. He relies upon § 66.115, STATS.<sup>2</sup> His reliance is misplaced. Wood suggests that this statute permits the imposition of a jail sentence for failure to pay only where the ordinance penalty was required by statute to conform to a state statute. That is not what the statute provides. Rather, it provides that *where* the statute requires conformity, that conformity does not extend to the imposition of a jail penalty for the offense. Section 66.115 has no application with respect to an ordinance that need not conform to penalties provided by state statute. The authority to impose imprisonment for a fixed maximum period for failure to pay a forfeiture or a fine has long been recognized. *Milwaukee v. Johnson*, 192 Wis. 585, 592, 213 N.W. 335, 338 (1927). This authority is constitutional. *Milwaukee v. Horvath*, 31 Wis.2d 490, 143 N.W.2d 446 (1966).

Finally, absent some compelling reason, this court does not address arguments not raised before the circuit court. See *State v. Yellow Freight System*, 101 Wis.2d 142, 158, 303 N.W.2d 834, 842 (1981).

*By the Court.* – Judgment affirmed.

(..continued)

order also pointed out, the trial court may award the appellant a free transcript if he demonstrates to the trial court (1) that his appeal has arguable merit and (2) that he is indigent for purposes of obtaining a free transcript. *State ex rel. Girouard v. Jackson Circuit Court*, 155 Wis.2d 148, 159, 454 N.W.2d 792, 797 (1990). The circuit court heard Wood's motion for a transcript on January 12, 1995, and denied it by written order dated January 19, 1995. Wood neither appealed nor challenged that order, and it is therefore a final order on the merits.

<sup>2</sup> Section 66.115, STATS., provides: "Penalties under county and municipal ordinances. Where a statute requires that the penalty under any county or municipal ordinance shall conform to the penalty provided by statute such ordinance may impose only a forfeiture and may provide for imprisonment in case the forfeiture is not paid."

This opinion will not be published. RULE 809.23(1)(b)4, STATS.